

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SEAN CARLOS BURKE,

Plaintiff,

v.

ACCO BRANDS, INC., et al.,

Defendants.

Civil Action No. 05-371 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on December 20, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 27], filed on July 21, 2006, recommended that Defendant ACCO Brands' motion to dismiss [Doc. No. 5] be denied, and that Plaintiff be directed to file an amended complaint as to his tort claims against ACCO Brands, Boise Cascade Corporation, and John Doe Manufacturer within twenty days. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 9th day of August, 2006;

IT IS HEREBY ORDERED that the Defendant ACCO Brands' motion to dismiss [Doc. No. 5] is DENIED; it is further ORDERED that Plaintiff file an amended complaint as to his tort claims against ACCO Brands, Boise Cascade Corporation, and John Doe Manufacturer, within twenty days.

The Report and Recommendation [Doc. No. 5] of Magistrate Judge Baxter, filed on July 21, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge